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Date: January 13, 2005**No. of Pages (including cover):** 19**To:** Examiner G. Gabel
United States Patent and Trademark
Office**Fax Number:** 571-273-0820
Contact Number: 571-272-0820**From:** Richard J. Sterner**Reference No.:** 1103326-0571

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NEWYORK 4603924 v1 (4603924_1.DOC) (2K)

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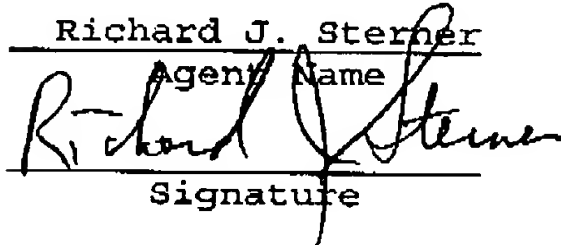
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Desousa, et al.
Serial No. : 09/341,196 Examiner: G. Gabel
Filed : July 6, 1999 Group Art Unit: 1641
For : SCINTILLATION PROXIMITY ASSAY FOR THE
DETECTION OF PEPTIDOGLYCAN SYNTHESIS

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I hereby certify that this paper is being
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22313-1450, on January 13, 2005.

Richard J. Sterner
Agent Name

Signature

35,372
PTO Reg. No.
January 13, 2005
Date of Signature

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESUBMISSION OF RESPONSE

Sir:

This is being submitted as a follow-up to the January 13, 2005 telephone discussion between the Examiner and Applicants' agent. In view of the PTO's mishandling of Applicants' previous response, prompt attention to and processing of this communication are particularly and respectfully requested.

On June 3, 2004, a telephone interview among the Examiner, her Supervisor and Applicants' agent was conducted. In the wake of the interview, Applicants promptly submitted, on June 8,

2004, a formal response to the outstanding Final Office Action while the matters discussed during the interview were fresh in the minds of the participants. In a follow-up July 8, 2004 discussion, the Examiner indicated to Applicants' agent that she would not be able to act on Applicants' response prior to expiration of the six-month final rejection period. Accordingly, Applicants filed a Notice of Appeal on July 12, 2004 to keep the application alive.

It came to the attention of Applicants' agent earlier this week, however, that although Applicants' June 8, 2004 Response was received by the PTO, the application file with said Response was never forwarded to the Examiner for consideration. This was determined from a check of the file history for this application found on the PAIR system. Therein can be found the entry "Workflow incoming amendment IFW" dated June 8, 2004 but no subsequent entry of "Date Forwarded to Examiner." A copy of the relevant portion of this file history is provided herewith.

In the January 13, 2005 telephone discussion, the Examiner confirmed that she had been unaware of Applicants' timely response. Accordingly, at the Examiner's request, Applicants are hereby resubmitting their June 8, 2004 Response. Included with the resubmitted Response is a copy of the Auto-Reply

Facsimile Transmission indicating receipt by the PTO on June 8, 2004 of the entire 12-page Response.

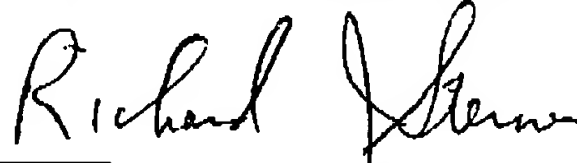
Said Response is fully reflective of what was discussed during the interview and responsive to what the Examiners requested be set forth in the response. During the interview, the Examiners indicated that the arguments presented by Applicants' agent were persuasive, that no further claim amendments needed to be submitted and that a setting forth in writing of what was discussed during the interview would be acted upon favorably.

However, due to PTO mishandling of the June Response, not only have more than seven months elapsed without the Examiner seeing it but there now remains less than a month in the appeal period for the Examiner to act on said response. Accordingly, in fairness, the present submission should be processed immediately and remanded to the Examiner without delay so that the application can be reconsidered and allowed before Applicants are obliged to spend additional time and financial resources to keep the application alive. Such prompt attention is respectfully requested.

No fee should be due in connection with this communication. However, should it be determined that a fee is required for any reason, the Commissioner is hereby authorized to charge it to Deposit Account No. 23-1703.

Dated: January 13, 2005

Respectfully submitted,



Richard J. Sterner
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Enclosures



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PATENT APPLICATION INFORMATION RETRIEVAL


Search results as of: 1-13-2005:13:22:47 E.T.

Search results for application number: 09/341,196			
Application Number:	09/341,196	Customer Number:	7470
Filing or 371(c) Date:	07-06-1999	Status:	Notice of Appeal Filed
Application Type:	Utility	Status Date:	09-15-2004
Examiner Name:	GABEL, GAIENE	Location:	ELECTRONIC
Group Art Unit:	1641	Location Date:	-
Confirmation Number:	4864	Earliest Publication No:	-
Attorney Docket Number:	1103326-0571	Earliest Publication Date:	-
Class/ Sub-Class:	435/007.1	Patent Number:	-
First Named Inventor:	SUNITA DESOUSA, BANGALORE, (IN)	Issue Date of Patent:	-
Title Of Invention:	SCINTILLATION PROXIMITY ASSAY FOR THE DETECTION OF PEPTIDOGLYCAN SYNTHESIS		

Search Options

Assignments
Foreign Priority
Image File Wrapper
Publication Review

File History	
Date	Contents Description
07-12-2004	Notice of Appeal Filed
07-12-2004	Request for Extension of Time - Granted
07-12-2004	Workflow incoming petition IFW
06-08-2004	Workflow incoming amendment IFW
01-12-2004	Mail Final Rejection (PTOL - 326)
01-12-2004	Final Rejection
11-05-2003	Date Forwarded to Examiner
10-30-2003	Response after Non-Final Action
10-27-2003	Mail Notice of Informal or Non-Responsive Amendment
10-24-2003	Date Forwarded to Examiner
09-24-2003	Informal or Non-Responsive Amendment after Examiner Action
09-24-2003	Response after Non-Final Action

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Total Pages: 12 (including cover page)

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Page
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FROM W&G LLP 19TH FL		(THU) 6. 8'04 19:50/ST 19:50/NO 4260454550 P	
		1103326-0571	
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE			
Applicant :	Desousa, et al.		
Serial No. :	09/141,196	Examiner :	G. Gabel
Filed :	July 6, 1999	Group Art Unit :	1641
For :	SCINTILLATION PROXIMITY ASSAY FOR THE DETECTION OF PEPTIDOGLYCAN SYNTHESIS		
I hereby certify that this paper is being facsimile transmitted to The U.S. Patent and Trademark Office, Alexandria, VA 22313-1450, on June 8, 2004.			
Richard A. Starnes		35,372	
Agent Name		PTO Reg. No.	
Signature		June 8, 2004	
		Date of Signature	
Attn: Examiner G. Gabel			
Art Unit: 1641			
Facsimile No.: 103-672-9306			
No. of pages: 12			
Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450			
<u>RESPONSE</u>			
Sir:			
This is submitted in response to the final Office Action mailed January 12, 2004 and as a follow-up to the June 3, 2004 telephone interview between applicants' agent and the Examiner.			
PAGE 1/12* RCVD AT 6/8/2004 6:50:11 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/24 * DNIS:2730820 * CSID:2128197583 * DURATION (mm-ss):04:36			